

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR



Office of the General Counsel to the Mayor

April 9, 2009

VIA E-MAIL : [REDACTED]

Re: Freedom of Information Act Appeal

Dear [REDACTED]:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code, 2001 Ed. § 2-531 *et seq.* (the "DC FOIA"), dated March 20, 2009 (the "Appeal"). We forwarded the Appeal to the District of Columbia Public Schools ("DCPS") with a request for a response. The DCPS responded by letter dated April 1, 2009 ("DCPS Response").

In your initial FOIA Request dated March 16, 2009, you sought:

1. "[D]ocumentation of a change in employment status during 2008 or 2009 for [REDACTED] (SSN# XXX-XX-XXXX), from part-time to full-time employment. I also request documentation of the monthly salary increase resulting from this change in employment status. In some of (sic) records, it is possibly [REDACTED] could be under the married name of [REDACTED]. [REDACTED] has been working as an Attorney Advisor in the Office of Attorney General at DCPS."

DCPS responded to your FOIA Request in a letter dated March 19, 2009, directing you to a District website containing the current salary information for all District government employees and the remainder of your request was denied under various District statutes.

On Appeal, Appellant challenges DCPS' partial denial of his FOIA request. In summary, Appellant believes the salary and employment history he is requesting is "clearly covered by the disclosure requirements placed upon District of Columbia public agencies."

Discussion

It is the public policy of the District government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code, 2001 Ed. § 2-531. In aid of that policy, the DC FOIA creates the right “to inspect ... and ... copy any public record of a public body” *Id.* § 2-532(a). Yet that right is subject to various exemptions, which may form the basis for a denial of a request. D.C. Official Code, 2001 Ed. § 2-534.

On Appeal, DCPS maintains the information sought by Appellant that was denied is exempt from disclosure under exemption 2 of the DC FOIA. This exemption states, “information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” § 2-534(a)(2). Further, the DC FOIA specifically makes the names, salaries, title, and dates of employment of an employee public information. See § 2-536(a)(1).

Here, it is clear Appellant is requesting information beyond the scope of the DC FOIA statute. There is a difference between requesting an employee’s salary and requesting the amount of an employee’s increase in salary. Although this distinction may seem subtle, nonetheless, it is a relevant distinction. The DC FOIA makes it clear a public body is obligated to disclose the salary of an employee and not an employee’s salary *increase*. [Emphasis added] *Id.*

Additionally, DCPS relied on DC FOIA exemption 6 in denying part of your FOIA request. This exemption states “information specifically exempted from disclosure by statute” is exempt from disclosure. § 2-534(6). The specific statute DCPS relied on was DC Code § 1-631 *et seq.*, which states “it is the policy of the District government to make personnel information in its possession or under its control available upon request to appropriate personnel and law-enforcement authorities, except if such disclosure would constitute an unwarranted invasion of personal privacy. . . .” § 1-631.03.

Here, it is clear Appellant is not classified as an “appropriate personnel” of the District government nor is Appellant a member of any law-enforcement authority. Because Appellant does not meet the statutory requirements, as to who can receive personnel information, and it would constitute an unwarranted invasion of personal privacy, DCPS was correct to deny Appellant’s FOIA request as it relates to the monthly salary increase of a government employee.


Therefore, we AFFIRM the decision of DCPS in denying part of your FOIA request inasmuch as you sought information on the increase in monthly salary of a government employee.



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If you are dissatisfied with this decision, you are free under the DC FOIA to commence a civil action against the District of Columbia government in the District of Columbia Superior Court.

Regards,



Runako Allsopp
Deputy General Counsel to the Mayor

cc: Nicole L. Streeter
Deputy General Counsel, DCPS